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May 1, 2003

Hon. Maura D. Corrigan
Chief Justice
Michigan Supreme Court
And The Associate Justices of the Michigan
Supreme Court
PO Box 30052
Lansing MI 48909

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OFFICE OF
THE CHIEF JUSTICE

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Re: ADM file 2002-34
Proposed Amendment of MCR 7.204, 7.210, 7.211 and 7.216

May it please the Court?

I strongly oppose the proposed amendments to MCR 7.212. I concur in the reasoning set forth by the Prosecuting Attorney's Association of Michigan and Assistant Wayne County Prosecuting Attorney, Timothy Baughman.

I write separately to underscore my serious concern about the proposed rules which would shorten the time permitted for filing of an appellant's brief and to eliminate stipulations to extend the time for filing appellant and appellee's briefs.

The purpose of the proposed rule as stated by the Court staff was to enable the Court of Appeals and "its settlement office to evaluate cases earlier in the process, thus saving time and money for both the Court and the parties."

I served as a Genesee County Commissioner for a number of years. On several occasions we were confronted with the admirable efforts to make the offices of the courts, clerk, prosecutor and sheriff, etc. more efficient. However, very often the efforts to become more efficient caused added expense and case flow problems in another office of our government. I agree with Assistant Prosecutor Mr. Baughman wholeheartedly, improving the efficiency in one part of a system without adjusting for the increase in efficiency will have no end-product benefit.

The proposed changes will cause additional strain on our limited resources. Many Michigan counties face budget problems, as does the State of Michigan. This rule will have financial implications for my office.

Many of the cases in which we are appellant's are interlocutory appeals with an expedited schedule. These cases are handled by this office as fast as possible and are well under the current time limit. The time and cost required to prepare and file these appeals is not impacted by the time limits in the court rules.

Most of the appeals handled by this office are in the form of appellate briefs in response to criminal defendant's appeals. The proposed rule changes addressing appellate briefs are the elimination of the stipulations to extend and the motions to extend.

My major concern is the elimination of the current stipulation to extend the filing date by 28 days. I have always stipulated to extensions of time when requested by defense counsel. It is the position of this office that counsel for defendant is in the best position to know the amount of time required to perfect his client's appeal. This office will and has always facilitated defense counsel in their effort to adequately perform their role. There is no prejudice to the defendant by granting his/her request for an extension.

One of the fastest growing areas of appellate practice is the ineffective assistance of counsel claim. I fear that this rule change will encourage more habeas corpus claims and cost the taxpayers more money in defending cases where self-imposed time limitations where Defense counsel cannot properly do the job.

Our goal is to protect both the interest of the People and the interest of the defendant. All the comments submitted to this Court point to projected results that will substantially diminish the rights of the parties. No one maintains that the proposed rule changes will improve the quality of the appellate process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Arthur A. Busch', with a long horizontal line extending from the end of the signature.

ARTHUR A. BUSCH
PROSECUTING ATTORNEY
GENESEE COUNTY